



ACTS, GESTURES, ATTITUDES AND OMISSIONS CAN CHARACTERIZE A HERETIC

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In his Encyclical "Pascendi Dominici Gregis", Saint Pius X said that the modernists were the most dangerous enemies of the Church, because they hid within Her very bosom, never clearly confessing their heresy (cf. p. 4).

Therefore, it would be highly reprehensible for the faithful to believe that only the declared enemies of the Bride of Christ should be fought.

To admit that it is enough for someone to call themselves Catholic to become unassailable, no matter how absurd they may say or do, is to establish absolute impunity for the wolves in sheep's clothing who enter the fold.

And, in relation to people of good faith, it is to deprive them of the warnings and clarifications that could protect them against error, or even keep them away from it, if they have already been deceived by his wiles.

"The ally that he [the devil] manages to implant within the faithful hosts – teaches us D. Antônio de Castro MAYER – is his most precious instrument of combat" ("Pastoral Letter...", p. 17).

That is why “Catolicismo”, since its founding seventeen years ago, has been constantly concerned with alerting its readers not only against the declared enemies of the Church – communists, socialists, pro-divorce, etc. – but also against its disguised enemies.

Wolves within the fold

The position of those who worry when they see wolves in sheep’s clothing roaming loose in the flock is painful. They are the object of misunderstandings, they are seen as maniacs of police persecution, they seem like petty spirits given to discovering heresies in everything.

For this reason, this newspaper has not only fought against internal adversaries, but has always sought to show that this fight is legitimate, convenient and even necessary.

To move it is to act according to the best traditions of the Church, it is to obey the recommendations of the Supreme Pontiffs, it is to imitate the Saints and heed the warning of Our Lord: “Beware of false prophets, who come to you in sheep’s clothing, but inwardly they are ravenous wolves” (Matthew 7:15).

In this article, we do not wish to repeat so many arguments that, over the past seventeen years, “Catholicism” has given in favor of the thesis that it is lawful and even necessary to alert the spirits against the enemies within the home. We are not going to demonstrate again that such action is recommended by the Popes, is not contrary to charity, does not have a morbidly negative character, etc.

We only want to deal with a very particular point, but of utmost importance for the exact characterization of the domestic enemy in the Church.

The question we ask ourselves is the following: is it necessary for a Catholic to defend, through words, spoken or written, propositions that are opposed to the faith, in order to become a heretic or suspected of heresy?

Can the set of attitudes of a person, their way of being, acting and behaving, characterize a heretic, even if they say or write nothing formally contrary to the faith?

In short: can someone fall into heresy by acts that he/she performs? The speculative and practical importance of this question is evident.

In theoretical terms, it must be considered that, according to Canon Law, a heretic who manifests his heresy externally is *ipso facto* excommunicated and excluded from the Church.

Therefore, the possibility of someone falling into heresy simply by performing certain acts has profound repercussions on the study of the Mystical Body of Christ, as well as on various other parts of Sacred Theology.

However, let us note from the outset that not every act that is irreconcilable with a dogma should be interpreted as revealing a heretical spirit. In fact, a sinner, although he/she believes in hell, may, through weakness or malice, act as if he/she did not believe in it. He/she wants to enjoy life, hopes to convert before he/she dies, or simply does not make an effort to overcome his/her bad habits. Does such a behavior make him/her a heretic? Absolutely not.

An act or a set of acts only reveal a heretical animus if, considered in all their circumstances, they unequivocally indicate that the person, in addition to acting in disagreement with some dogma, persistently denies or casts doubt on it. (On the concept of heresy, see the second article in this series).

In practical terms, it is clear that, if simple acts are capable of characterizing a heretic, the number of excommunicated people is greater than it might seem at first glance.

Furthermore, the fight against wolves in disguise gains new scope and new resourcefulness once it is proven that it is possible to fall into heresy by committing certain acts.

The idea that it is only through words that one can deny a principle of faith is common in Catholic circles. Driven by this erroneous idea, many timid spirits feel insecure when fighting this or that internal enemy of the Church. They believe that they are attacking a brother in the faith, a member of the Mystical Body of Christ.

Even if they admit that a certain attitude is tactically erroneous, or harmful to the interests of Religion, such people hesitate to denounce a Catholic. If they are made to see that in such and such a case they are dealing with a heretic, a thousand inner and unjustified reluctances will have fallen away.

The problem becomes even more serious because “the instigators of such errors are very often people with a personal conduct [...] exemplary, with which, far from serving the cause of good principles, on the contrary, they facilitate the propagation of evil, giving such doctrines a disinterested and purely speculative character” (Plinio CORRÊA DE OLIVEIRA, “Em Defesa...”, p. 100).

The enormous devastation that has been wrought in the flock of Christ would have been avoided if the wolves had been called wolves from the beginning, that is, if their sheep's disguise had been torn away early on, thus revealing the rough, rude and repulsive skin of the heretic.

A young university student, for example, professes to be Catholic. He works actively in movements that are said to be for the demands of peasants, workers and students. Having long been an ally of the communists in such movements, he has become accustomed to having them always on his side. He does not call himself a Marxist, and even proclaims himself a staunch opponent of all forms of atheism, but he views socialism with sympathy. Even extreme socialism. Because he fights for “advanced” basic reforms, he has already had problems with the police – with the police that he labels as reactionary, sold out to the capitalists, and an instrument of North American colonialism. He takes communion every day, but he believes that the childish practices of the “Constantinian Church” should disappear from the adult life of piety of the enlightened Catholic of the “Church of Vatican II”; that is why he smiles with disdain when he hears talk of the Heart of Jesus, the Virginity of the Blessed Virgin Mary, devotion

to the Saints, Transubstantiation, hell, etc. He never directly attacks any dogma, because he understands that if he did, he would be doing his own cause a disservice; but he does not speak of them, and he does not like to hear them spoken of.

We therefore ask ourselves: can it be said that this young man is a heretic?

Internal and external heresy

To answer this question, we must first observe that, for legal purposes, there is an enormous difference between internal and external heresy, that is, between the sin of heresy committed in the secret of conscience and that which is revealed externally, constituting heresy in the canonical sense.

In fact, since the Church is a visible society, it can only legally punish sins that are visibly manifested. A sin that does not leave the depths of the conscience is a true sin and will be punished by God. The Church can forgive it in the tribunal of confession. However, if the sin has not been manifested in the visible realm, it cannot be punished in the visible realm, that is, it cannot be the object of ecclesiastical punishments or censures.

A man succumbs to a temptation against the faith and, in his heart, denies, for example, the dogma of the eternity of hell. He does not tell anyone about it. He has undoubtedly committed a mortal sin of heresy. But he is not excommunicated or excluded from the Church. He will only be so at the moment in which he externalizes this heresy.

Now, it is a common thesis among theologians that it is possible to externalize a heresy, and thus incur canonical penalties, not only through words, but also through gestures, attitudes, signs, and omissions.

This assertion by theologians is based on an obvious and very simple argument: for canonical purposes, a heretic becomes one who externally manifests his internal heresy; now, thoughts can be expressed not only through words, but also through gestures, attitudes, and signs.

In fact, a simple nod, a hand gesture, or a facial expression can unequivocally indicate a thought.

In a broader context, a political stance, the silence of an authority, or a public attitude can express, depending on the circumstances, that the person who acts in this way has such and such ideas.

It is common ground that there can be heresy by acts

Before examining some collateral problems – although of fundamental importance – that this thesis raises, we wish to show that there is nothing new or original in what we have just stated. On the contrary, as we have already said, this is common ground among theologians.

However, since the widespread prejudice that only those who enunciate a heresy with written or spoken words are heretics, we wish to dwell a little on the references of renowned theologians:

■ “According to the general rule, it is necessary and sufficient, in order to constitute external heresy and to incur censure, that internal heresy be manifested by some external sign. These signs are usually classified into two types: words and acts. Among words are included signs of the head, hands or any other, and therefore the manner of speaking by which some understand each other by forming some signs by movements of the fingers is sufficient. Among acts must also be included the omission of some external action, since the omission of an act sometimes manifests internal heresy no less than a positive act, which is why heretics are often discovered by the very fact that they do not practice the actions of Catholics” (DE LUGO, disp. XXIII, sect. II, n. 11).

■ “External is the heresy that manifests itself by external signs (by words, by signs, by acts, by the omission of acts)” (MERKELBACH, p. 570).

■ “External heresy is an error against the faith manifested by a word or by another external sign” (PRÜMMER, p. 365).

■ “To incur such excommunication [*latae sententiae*, especially reserved for the Supreme Pontiff], it is necessary that the heresy, after being conceived internally, manifests itself externally by a word, a writing or an act” (TANQUEREY, “Syn. Theol. Mor. et Past.”, p. 475).

■ External heresy “adds to the internal heresy a sufficient external manifestation, expressed by words, signs or actions that are conclusive” (WERNZ-VIDAL, p. 444).

■ “The external manifestation of heresy can occur in any way, through signs, writings, words and actions, as long as it becomes sufficiently clear that it is a true and proper adhesion, and also fully deliberate, that is, formal” (DE BRUYNE, col. 490).

■ “To incur excommunication, it is necessary that the heresy conceived internally manifests itself externally by some sign – word, act or writing – even if no one is present or listening” (NOLDIN, vol. I, “Compl. de Poenis Eccl.”, p. 48).

■ “It matters little [for someone to incur excommunication] whether he manifests heresy alone or in front of others; whether he does so by a word, by a written statement or by an act, as long as he has warned of the heresy implicit in the act” (GENICOT, p. 647).

■ “Internal heresy is that which is only conceived mentally, not manifesting itself through any external sign. External heresy is that which is declared through external signs: through words, writings, acts, denials, etc.” (PEINADOR, p. 103).

■ “External heresy is manifested through omissions, words or other perceptible signs” (ZALBA, p. 28).

■ “Heretics, that is, Christians who persistently deny or question, not only internally, nor only externally, but both internally and externally, through some sign – words, acts or writings – truths of faith proposed by the Church [...]” (IORIO, p. 258) are subject to excommunication.

■ “For there to be a crime, apostasy, heresy or schism must manifest itself externally through acts or words” (MIGUÉLEZ-ALONSO-CABREROS, p. 845).

The same thesis is also found in the following authors: SUAREZ, disp. XIX, sect. IV, n. 4-5; disp. XXI, sect. II, n. 8; REIFFENSTUEL, n. 26; SCHMALZGRUEBER, n. 98; D'ANNIBALE, "In Constitutionem...", n. 31; LEHMKUHL, p. 656; CORONATA, p. 280; CAPPELLO, p. 551; FERRERES, p. 743; WERNZ-VIDAL, pp. 445, 449, 450; MICHEL, cols. 2242-2243; NOLDIN, vol. II, p. 26; BRYIS, p. 502; ARREGUI, p. 78; PEINADOR, p. 74; SIPOS, p. 608; ZALBA, p. 973.

Difficulties that are not small

As we have already said in passing, the difficulties raised by the thesis that someone can become a heretic by committing certain acts are not small. Let us examine some of them.

■ CAN AN ACT HAVE AN UNEQUIVOCAL MEANING?

1 – An act, an attitude, a gesture or an omission can always have more than one meaning. Furthermore, they can result from coercion, from the shock of mental faculties, etc. Is it not the case that one assumes the risk of committing serious injustices by admitting that someone may commit the crime of heresy, and therefore be excommunicated and excluded from the Church, for acting in a certain way?

The answer is obvious. It is clear that there are ambiguous acts, susceptible to more than one interpretation. Anyone who performs such acts will not become a heretic; depending on the circumstances, he may become suspected of heresy. But it is equally clear that there are acts or sets of acts that are unequivocal, that is, not susceptible to more than one interpretation.

As for the possibility of coercion, it is clear that it exists. But it exists both in the performance of acts and in the utterance or writing of words.

In order to avoid inaccurate judgments regarding actions motivated by coercion, fear, ignorance, error, etc., the Law has developed detailed and wise rules of procedure over the centuries.

Such precautions are also essential in Canon Law. In the case we are examining, of heresy by acts, the canonical crime will only be characterized when it becomes certain that there is full knowledge of the cause on the part of the one who commits it, persistence in the condemnable attitude, heretical animus, etc.

We should not, therefore, make hasty judgments regarding actions that by their nature indicate a heretical spirit; but it cannot be denied that in many cases ideas manifest themselves unequivocally through acts.

An important observation is necessary here: by the fact that we say that we should not make hasty judgments about ambiguous acts of others, are we affirming that a Catholic should never suspect his neighbor? That every suspicion is a rash judgment?

Absolutely not. The theory of rash judgment has been extensively analyzed by Prof. Plínio CORRÊA DE OLIVEIRA in articles of great repercussion, published in "Legionário" in 1941. These articles, after proving that perspicacity is an indispensable virtue for men of all conditions, show that Our Lord practiced it and recommended it insistently. Clues that are insufficient to make an unfavorable judgment about someone may, however, be enough to raise a suspicion. And raising it is often a duty. The director of a firm has a true moral obligation, towards the partners, to suspect the employee in whom he has noticed a strange behavior. The father has the obligation to distrust the son who shows signs of a serious spiritual crisis, because only then will he be able to fulfill his duties as a father.

Furthermore, a favorable judgment may be unfounded and therefore reckless. It may even cause serious harm to the interests of third parties. The company director who unfoundedly trusted an employee, or the father who, through exaggerated complacency, formed a better idea of his son than he deserved, made recklessly good judgments and were therefore unable to fulfill their duties.

Applying these considerations to our topic, we must state that there is nothing reckless in considering someone who gave grounds for it to be suspected of heresy. On the contrary, it would be reckless not to consider him as such. And, above all, it would be reckless to maintain that, as a matter of principle, one should never raise a suspicion of heresy: in doing so, one would be favoring the invasion of the sheepfold by wolves dressed in sheep's clothing.

■ CAN PERTINACITY BE MANIFESTED BY ACTIONS?

2 – How can we prove the pertinacity of someone who says nothing contrary to the faith? Doesn't tenacity require an obstinacy that can only be expressed in words?

To this objection we must also respond that both words and actions are capable of unequivocally characterizing a tenacious spirit. Just as benevolence, good sense, enthusiasm, hatred, and pride can be expressed in a person's face and in a gesture or a series of gestures, so can pertinacity.

Furthermore, it should be noted that the word "pertinacity" has, in the definition of heresy, a different meaning than the current one. In common usage, as endorsed by any dictionary, "pertinacious" means very tenacious, obstinate, stubborn, persistent, lasting a long time, persevering. This is also the meaning of the word in Latin.

If pertinacity, thus understood, were essential to the sin of heresy, it would only exist in cases of refined malice, which is perhaps frequent but difficult to prove; it could only be determined after a long period of observation; and it would never be committed in a movement of weakness, such as anger.

Now, moralists and canonists are unanimous in affirming that the Code of Canon Law (can. 1325, § 2) does not use the word in this sense.

As TANQUEREY teaches, someone who denies or questions a truth of faith "scienter et volenter", that is, with

full knowledge that this truth is a dogma, and with full adherence of the will, is obstinate.

“For there to be obstinacy – he adds – it is not necessary for the person to be admonished several times and to persevere for a long time in his obstinacy, but it is enough that he consciously and voluntarily [*sciens et volens*] denies assent to a proposed truth in a sufficient manner, whether he does so out of pride, or because of the pleasure of contradicting, or for any other reason” (TANQUEREY, “Syn. Th. Mor. et Past.”, p. 473).

It is enough to deny it “*brevi mora*”, that is, in an instant, in a very brief time (TANQUEREY, “Brevior Syn. Th. Mor.”, p. 95), since pertinacity, in this case, “does not mean duration in time, but perversity of reason” (ZALBA, p. 28). And there may be pertinacity in a sin of heresy committed out of simple weakness (cf. CAIETANO, in II II, 11, 2).

On the canonical meaning of “pertinacity”, in the definition of heresy, see also: SAINT THOMAS, “Summa Theol.”, II II, 11, 2, 3; “Super Ep. ad Titum Lect.”, n. 102; WERNZ-VIDAL, pp. 449-450; MERKELBACH, p. 569; PRÜMMER, p. 364; NOLDIN, vol. II, p. 25; DAVIS, p. 292; PEINADOR, p. 99; REGATILLO, p. 142; JOURNET, p.09.

■ IS ADMONITION NECESSARY IN HERESY BY ACTS?

3 – Saint Paul commands that the heretic be warned once or twice before being avoided (cf. Titus 3:10).

How dare one claim, then, that someone becomes a heretic simply by practicing certain actions?

When canonists affirm that one can incur the sin of heresy by practicing acts, they are not saying or insinuating that in heresy by acts the other conditions required in the case of heresy by words cease to apply.

Therefore, warning is necessary, in principle, in both cases. We say “in principle” because the rule enunciated by Saint Paul admits an important exception. The treatise writers teach

that the warning required by the Apostle of the Gentiles aims to make it clear to the sinner that he is denying a truth of faith, that is, a truth that cannot be denied under any pretext.

The Church is always extremely concerned with avoiding the mistake of characterizing the heretical animus.

Now, there are cases in which such a mistake cannot occur. There are cases in which the heretic, with all evidence, knows that the truth he is denying, or doubting, is of faith. It is unacceptable, for example, that a doctor of theology is unaware that the Virginity of Our Lady is dogma.

On the other hand, in a conversation or a conference, even a doctor of theology can inadvertently let slip an improper expression, which in itself would constitute heresy. Even in a book that he writes, and on which he has reflected at length, it is possible to admit that an error has crept in without him noticing. But if the central thesis of the book is manifestly heretical, it is no longer possible to admit error, inadvertence or carelessness. The admonition would be superfluous.

DE LUGO, citing great authors of his time, thus exposes this important issue: “[...] also in the external forum, prior warning and reprimand are not always required for someone to be punished as a heretic and obstinate, nor is such a requirement always admitted in the practice of the Holy Office. For if otherwise it can be established, given the very notoriety of the doctrine, the quality of the person and other circumstances, that the defendant could not be unaware of the opposition of that doctrine to the Church, by that very fact he will be considered a heretic [...]. The reason for this is clear, because external admonition can only serve to warn the one who has erred of the opposition that exists between his error and the doctrine of the Church. If he knows the whole subject much better from books and conciliar definitions than he could from the words of the one who warned him, there is no reason to require another warning so that he becomes obstinate against the Church” (DE LUGO, 2002, p. 12). disp. XX, sect. IV, n. 157-158). See also DIANA, resol. 36; VERMEERSCH, p. 245; NOLDIN, vol. I, “Compl. de Poenis Eccl.”, p. 21; REGATILLO, p. 508.

Such a doctrine – one might object – is contradictory in the treatises, but it was not accepted by the Code of Canon Law, which in canon 2233, § 2, categorically establishes that the defendant must be reprimanded and warned before the imposition of the censure.

The objection is not upheld, since this canon applies only to *ferendae sententiae* censures, that is, to those inflicted by the Superior or the ecclesiastical judge.

When the censure is *latae sententiae*, that is, when the defendant incurs it automatically by the very fact of having committed a certain crime, the warning is not necessary.

In such cases, as a beautiful legal formula says, “*lex interpellat pro homine*” – the law interpellates in the place of the man (cf. PALAZZINI col. 1298).

Now, the excommunication that weighs on the heretic is *latae sententiae* (can. 2314, § 1).

It is clear, therefore, that the current Code has also accepted the principle that the warning is not always necessary for pertinacity to be characterized.

Acts that canonically involve suspicion of heresy

The study of heresy by acts requires an analysis of the legal concept of suspicion of heresy.

Indeed, the Code of Canon Law lists several acts that by their nature give rise to suspicion that the person who committed them is a heretic. They are not, therefore, unequivocal acts. Normally, only the heretic commits them, but strictly speaking they can be explained by causes other than heresy.

Before we see how the Church proceeds in such cases in order to clarify whether the person is a heretic or not, let us analyze the crimes that, according to Canon Law, give rise to suspicion of heresy:

■ 1 – Marrying with an explicit or implicit pact that all or some of the children will be educated outside the Catholic Church (can.2319, n 2).
– The reason is obvious. If, in a mixed marriage, the Catholic spouse agrees that the children should be educated, for example, in the Protestant religion, it is probably because he or she believes that Protestantism is a valid way of praising God. And it is heresy to believe that the Catholic religion is not the only true religion.

■ 2 – To knowingly hand over the children to non-Catholic ministers so that they may baptize them (canon 2319, n^o. 3).

■ 3 – Knowingly handing over children or infants in one's custody to be educated or instructed in a non-Catholic religion (can. 2319, n. 4).

■ 4 – Throwing away the consecrated species, as well as taking them or keeping them with oneself for an evil purpose (can. 2320). – For it is highly suspicious that those who commit such crimes do not believe in the Real Presence or that, out of hatred for the sacred species, they deny other dogmas.

■ 5 – Obstinate remaining stained with excommunication for a year (can. 2340, § 1). – For those who act in this way do not believe in the jurisdictional power of ecclesiastical authorities, or deny other dogmas.

■ 6 – By simony, and knowingly, conferring or receiving sacred orders, or administering or receiving other sacraments. The Code emphasizes that the suspicion of heresy, in this case, may also fall on a person elevated to the episcopal status (can. 2371).
– The commercialization of the Sacraments reveals such contempt for all that is most sacred in the Holy Church that it gives rise to fear that those who practice it do not believe in some dogma.

■ 7 – Spontaneously and knowingly helping, in any way, the propagation of heresy (can. 2316).

■ 8 – Actively attending sacred functions of non-Catholics, or taking part in them, except by mere passive presence by reason of civil office or social necessity, for a serious reason and provided there is no danger of scandal (can. 2316).

– The Ecumenical Directory “*Ad totam Ecclesiam*”, published on 14 May 1967 by the Secretariat for the Unity of Christians, greatly expanded the cases of *communicatio in sacris* authorized by the Holy See. Thus, many acts, which until recently created canonical suspicion of heresy, no longer do so. It remains true, however, that by virtue of canon 2316, those who participate in sacred functions of non-Catholics in circumstances such as to disregard the laws in force become canonically suspect of heresy. The reason for this canon is clear: to participate improperly in non-Catholic religious ceremonies is to give the impression that they are pleasing to God.

- 9 – To appeal to a universal Council from the laws, decrees or orders of the Supreme Pontiff, whatever the appellant’s status, rank or condition, even if he is royal, episcopal or cardinal (can. 2332).
- Whoever appealed to a Council from a papal decision would be implicitly admitting the superiority of the Council over the Roman Pontiff, which is a heretical thesis.

Regarding canonical cases of suspected heresy, see: WERNZ-VIDAL, pp. 451-452; TANQUEREY, “*Brevior Syn. Th. Mor.*”, p. 386; VERMEERSCH, p. 316; CAPPELLO, pp. 552 ff.; FERRERES, p. 743; SIPOS, p. 609; REGATILLO, p. 573; IORIO, pp. 253 ff., 260 ff.

Canonical measures against those suspected of heresy

How does the Church proceed to verify whether those suspected of heresy are really heretics?

Canon 2315 states that “the person suspected of heresy who, after being admonished, does not remove the cause of suspicion, is to be removed from legitimate acts [the name given by can. 2256, 2, to certain juridical acts: being a godparent at baptism and confirmation, voting in ecclesiastical elections, administering ecclesiastical property, etc.] and, if he is a cleric, once the admonition has been repeated in vain, he is also to be suspended a divinis [that is, forbidden from celebrating Holy Mass and from exercising other acts of worship proper to clerics]; and if the person suspected of heresy does not reform within a period of six full months from the moment he incurred the penalty, he is to be considered a heretic, subject to the penalties of heretics.”

It is therefore worth noting how prudent and patient the Church is with regard to such people. In addition to the warning, which must be repeated in the case of a cleric, the Church gives a period of six months for retraction or for any clarifications, before applying the penalties appropriate to heretics. Even these penalties do not fall automatically, but must be applied by the Bishop, who may eventually have reasons for not carrying them out.

However, in addition to being prudent and patient, the Church is just. And justice demands energy. When certain limits are exceeded, the gangrenous member must be cut out of the body, which has already excommunicated itself and excluded itself from the Church, and which also constitutes a threat to the faith of others.

According to the spirit of the Church, censures must be imposed with sobriety and great circumspection, but there must also be severity and rigor, if necessary: see canons 2214, § 2, 2241, § 2; WERNZ-VIDAL, pp. 180 ff.; VERMEERSCH, pp. 236-237, 259; REGATILLO, pp. 500-501, 523.

The cases of suspicion of heresy listed above are those provided for in the Code of Canon Law. However, as theologians note, there are also non-canonical cases of suspicion of heresy.

“Suspicion of heresy is created,” says WERNZ-VIDAL (pp. 451-452), “in the practice of magic, sorcery, and fortune-telling; in very serious abuses of the Sacraments, such as, for example, the crime of soliciting confession, violating sacramental secrecy, or fraudulently performing the Sacraments by a person who has not received priestly ordination; in crimes against ecclesiastical authority that give rise to well-founded suspicions that the defendant has erroneous ideas not about the person exercising it, but about authority itself, as is the case with those who give their name to sects that, openly or secretly, plot against the Church or civil society [...]. These cases, which in ancient law [that is, in Canon Law prior to the current Code, which was promulgated in 1917] were brought up by the Doctors, continue by their very nature to be so.” [ex natura rei] to give grounds for the suspicion of heresy; but legal suspicion only exists in the cases expressly provided for in the Law” (these are the nine cases listed above). In the same sense, see D’ANNIBALE, “In *Constitutionem...*”, no. 31.

We draw the reader's attention, in a special way, to this distinction between canonical and non-canonical cases of suspicion of heresy. As for the former, the Code itself foresees the hypothesis, defines it and punishes it. As for the others, there is no direct reference in ecclesiastical laws, but the very nature of the act gives rise to fear that the person who practiced it is, deep down, a heretic. Someone who practices magic, for example, probably denies some dogma, although the Code is silent on the matter.

We therefore ask ourselves: do the numerous acts that by their very nature create suspicion of heresy, but which are not provided for in current Canon Law, therefore remain unpunished?

The importance of this question is capital. And it is all the greater since many authors, when dealing with the canonical crime of suspicion of heresy, emphasize that this legal figure only includes cases expressly provided for by law (CAPPELLO, p. 553; VERMEERSCH, p. 316; BRYS, p. 504; ZALBA, p. 30; IORIO, p. 260).

Should it perhaps be argued that the Church, as a kind and benign Mother, only punishes the nine cases indicated, leaving the rest open to her bad children?

Other acts connected with heresy, not provided for in the CIC

Before answering this question, let us complete the panorama within which it should be analyzed. For there are several other categories of acts connected with heresy that were punishable by the old Law, and that do not appear in the Code, at least explicitly. These acts are: believing in the heretic, favoring him, receiving him and defending him.

On these criminal figures, see: SUAREZ, disp. XXIV, sect. I; DE LUGO, disp. XXV, sect. I; SCHMALZGRUEBER, n.os 91 ss.; D'ANNIBALE, "*Summula...*", p. 8; WERNZ-VIDAL, pp. 450 ss.; MICHEL, col. 2244.

■ “BELIEVERS”: THOSE WHO BELIEVE IN THE HERETIC OR ARE WILLING TO BELIEVE

The “believers”, that is, those who believe in the heretic, those who give him credit, “are those who in bad faith accept, by a judgment of intelligence, at least one heretical doctrine proposed by the heretic, even though they have not adhered to any specific sect” (WERNZVIDAL, p. 450).

This crime is of little interest to our study, since “believers do not differ essentially from heretics, and are therefore included under the crime of heresy, if the other circumstances are not lacking” (WERNZVIDAL, p. 450). In effect, anyone who accepts a heretical doctrine is a heretic. This distinction between “believers” and heretics affiliated with some sect should serve us only to make it clear that both are excommunicated, although the latter incur special penalties, provided for by canon 2314, § 1, 3.

However, as SUAREZ observes, the concept of “believers” should also be extended “to those who, although they do not yet assent to errors, nevertheless go and listen to heretics with such a spirit that they are ready to give them credit, if the reasons or arguments alleged please them” (SUAREZ, disp. XXIV, sect. I, n. 3). The same doctrine is taught, among others, by DE LUGO (disp. XXV, sect. I, n. 3) and SCHMALZGRUEBER (n. 92)

Further on, SUAREZ adds that people who regularly attend meetings of heretical sects should be considered “believers”. Here we are, therefore, faced with yet another clear case of a crime connected with heresy that is committed not by words but by actions.

■ HERESY FACTORS

The heresy promoters “are those who, by the practice of some act or omission, grant heretics some favor that results in the promotion of heretical doctrine” (WERNZ-VIDAL, p. 450).

Note that, for the crime of favoring heresy to exist, a favor must be provided to the heretic as a heretic. It is clear that if a doctor, for example, treats an indigent Protestant, he does not thereby become a heresy promoter. The same observation applies, *mutatis mutandis*, to the defenders and recipients of heretics, which we will soon discuss.

Regarding the favoring of heresy by omission, DE LUGO writes: “By omission, those who by reason of their office are obliged to arrest, punish, expel him, and yet neglect these duties, favor the heretic. For example: the Magistrates to whom the Bishop or the Inquisitors appeal, or to whom they hand over the heretic to be punished; and also the Inquisitors and ecclesiastical Prelates themselves, if they neglect what they are obliged to do by reason of their office, thus favoring heresy. The same must be said of the other ministers and officials of the Holy Office, and even of private persons upon whom this duty is imposed by those who have the power to impose it; and also of witnesses who, obliged to tell the truth when legitimately questioned, conceal it in order to favor the heretic” (DE LUGO, disp. XXV, sect. I, n. 6). In the same sense one can read SUAREZ, “De Fide”, disp. XXIV, sect. I, n. 6; SCHMALZGRUEBER, n.^o 94.

■ RECEIVERS: THOSE WHO WELCOME HERETICS

The receivers “are those who hide or shelter heretics in their own or someone else’s place, so that they can be freed from judicial investigation and the punishments they would deserve” (WERNZ-VIDAL, pp. 450-451).

DE LUGO notes that, to characterize the crime, “it is enough to receive the heretic once, as all authors affirm, and similarly to what happens with the defender and the supporter of the heretic [...]. Under this censure [of receiver] are included not only those who receive and hide the heretic in their own house so that he is not caught, but also the magistrates and princes who receive them in their own cities or provinces so that, under their protection, they are free and can remain in the sect to which they belong” (DE LUGO, disp. XXV, sect. I, n. 4).

■ DEFENDERS OF HERETICS

The defenders “are those who do not adhere internally to the heretical doctrine, but nevertheless defend it, with words or writings, against those who challenge it.

They are also “those who protect, by force or by other unjust means, the persons of heretics against a legitimate persecution caused by heresy” (WERNZ-VIDAL, p. 451).

■ ANACHRONIC TEXTS?

Some of the texts we have just cited, concerning the “believers”, supporters, recipients and defenders of heretics, may seem entirely anachronistic and outdated by the modern practice of the Church.

We cite them, however, for two reasons.

First, they make it clear that, even in our day, there are many Catholics who fall into such sins connected with heresy. For today, as in the past, there are those who listen to heretics with a mind ready to give them credit; those who grant them favors that result in the promotion of heresy; those who, while performing functions that require the punishment of the heretic, fail to do so; etc.

Secondly, a theoretical study of heresy cannot be limited to an analysis of the present-day situation. The malice of our times has led the Church to tolerate in her legislation procedures that do not correspond to the ideal order for which she and her children aspire and fight.

The texts cited above indicate how far, by the very nature of things, the obligation to persecute heretics goes in an entirely Catholic society. These were the principles that prevailed in the Middle Ages, of which LEO XIII said in the Encyclical “*Immortale Dei*”:

“There was a time when the philosophy of the Gospel governed the States. At that time, the influence of Christian wisdom and its divine virtue penetrated the laws, institutions, customs of the people, all the categories and all the relations of civil society. Then the Religion instituted by Jesus Christ, solidly established in the degree of dignity that is due to it, flourished everywhere, thanks to the favor of the Princes and the legitimate protection of the Magistrates. Then the Priesthood and the Empire were linked together by a happy harmony and by the friendly exchange of good offices. Organized in this way, civil society bore fruits beyond all expectations, fruits whose memory survives and will continue to survive, recorded as it is in countless documents that no artifice of adversaries will be able to corrupt or obscure” (p. 15).

Canonical impunity for so many sins connected with heresy?

At this point, we can repeat the question we asked ourselves: do the numerous sins connected with heresy, but not provided for in the Code, remain unpunished under current Canon Law?

The answer must be: absolutely not.

In fact, *a priori*, we could already say that practices so harmful to the faith could not go unpunished. To leave the ecclesiastical authority unarmed in the face of them would be to install the wolf within the fold of Christ.

It is well known that, both in the civil and ecclesiastical order, positive law should not, and cannot, punish all condemnable acts. By wanting to repress by law everything they judge to be evil, socialists, for example, end up establishing a legal regime that is completely unnatural, and above all incomparably more unjust than the injustices they intended – or claimed to intend – to eliminate.

There are certain crimes, however, that the law cannot fail to punish, because they are fundamentally contrary to the social order. If they go unpunished, such crimes would spread so much that the very existence of society would be put at risk.

Thus, in the civil sphere, the laws cannot fail to punish homicide, offenses against the bodily integrity of others, etc.

Likewise, the crimes connected with heresy that we have analyzed above are such that Canon Law could not fail to punish them, in one way or another.

How can we imagine that those suspected of heresy would poison the spirit of the faithful with scandalous acts, without the ecclesiastical authority having a means of reaching them?

How can we imagine that the promoters of heresy would have full citizenship rights in the Holy Church? Would they inoculate the deadly virus into the Mystical Body of Christ, without any measure being taken against them?

A priori – we repeat – it could already be asserted that Canon Law represses criminal acts connected with heresy. And, in fact, the Code contains several legal means for punishing such acts. Without intending to exhaust the issue, we will indicate some of these means.

Many of the acts mentioned above undoubtedly fall under canon 2316, according to which “anyone who voluntarily and knowingly helps in any way to spread heresy is suspected of heresy”. Therefore, the person who committed the criminal act will be treated like any other person suspected of heresy, according to canon 2315, which we have already analyzed.

There are authors who believe that this is the situation of all recipients, defenders and supporters of heretics, in the current Code (cf. MICHEL, col. 2244). As for “believers”, they either fit into this same category or are directly heretics, as we have seen.

The question could be considered resolved, were it not for two facts: some canonists exclude crimes of omission from canon 2316 (VERMEERSCH, p. 317); and others affirm that the recipients, defenders and supporters of heretics do not fall, as a general rule, under this provision, but under other canons.

Thus, SIPOS (p. 608) considers them to fall under canon 2209, § 7, which punishes the praise of a crime committed, participation in its fruits, concealment of the offender, etc.; and reserves for canon 2316 only the specific hypotheses of aiding in the propagation of heresy.

WERNZ-VIDAL (p. 451) places them under the various paragraphs of canon 2209, and not only under the seventh. The other paragraphs consider the notions of complicity, of induction into the crime, of cooperation in its consummation, of concurrence through negligence in the performance of one's office, etc.

On the other hand, several authors leave open the possibility of including all crimes connected with heresy in canon 2315 itself, which punishes suspicion of heresy. In fact, such canonists believe that the specific crime of suspicion is committed not only in the nine cases provided for by law, which we have listed above, but also in any other cases which by their very nature give rise to fear that the person involved in them will deny some dogma (cf. SIPOS, p. 609; REGATILLO, p. 573). This possibility is not admitted by: VERMEERSCH, p. 316; CAPPELLO, p. 553; BRYIS, p. 504; ZALBA, p. 30; IORIO, p. 260.

Finally, we must note that even in the absurd hypothesis that no law punishes crimes connected with heresy, a canonical path for its punishment would remain open: the legal figure of heresy itself.

In fact, canon 2314, § 1, declares that heretics incur excommunication *ipso facto*. Now, as we have seen, it is possible to incur heresy both by spoken or written words, and by actions. By the very nature of things, therefore, and not only by a canonical provision, anyone who commits a crime connected with heresy becomes a suspect of heresy. And, also by the very nature of things, a suspect must be treated as a suspect.

What would happen, then, if no law punished the aforementioned crimes? Should a case of suspicion of heresy arise, the Bishop, the Superior or even a zealous friend could call the suspect – and, depending on the case, should do so – and ask that the cause of suspicion be removed. If necessary, there would

be a second warning, in accordance with the precept of Saint Paul. A certain amount of time could still be given for retraction, if circumstances so advised. Finally, if all proved futile, the heretic would be characterized, falling under canon 2314, § 1.

We repeat, therefore, that it would be absurd to imagine a Canon Law in which sins connected with heresy would remain completely unpunished, thus opening the doors of the sheepfold to the most voracious wolves, provided they were well disguised as sheep.

As to whether such sins should be classified in this or that canon, the divergence between the authors seems to show us, above all, that there is more than one legal way to punish any crime connected with heresy.

There is therefore no shortage of laws, but, on the contrary, there are so many that they create a certain perplexity among canonists.

Diffuse Heresy

In a recent Pastoral Letter, Bishop Antônio de Castro MAYER warned his diocesans against diffuse heresy, “which, without being embodied in explicit propositions, is underlying and operative in the way of being of the common people of today, and, through society, infiltrates Catholic circles...” (“Considerations...”, p. 20).

Earlier, Bishop Geraldo de Proença SIGAUD had warned his faithful against diffuse communism, which “is by far a greater danger than direct communism” (p. 123).

In our era of so many declared heresies, it is nevertheless the disguised and diffuse ones that constitute the most serious threats to the faith of each Catholic and to Christian civilization.

We believe we can contribute to combating them by showing that it is possible to fall into external heresy not only through words, but also through acts, gestures, signs, attitudes and omissions.

AUTHORS CITED

- ARREGUI, S. J., Antonius M. – “*Summarium Theologiae Moralis*” – Mensaj. del Cor. de Jesús, Bilbao, 1952.
- BRYN, J. – “*Juris Canonici Compendium*” – Desclée, Brugis, 1949, vol. II.
- CAIETANUS, O. P., Thomas de Vio – “*Commentaria in Summam Sancti Thomae*” – in II II, q. 11, a. 2 – apud Peinador, p. 99.
- CAPPELLO, S. J., Felix M. – “*Summa Iuris Canonici*” – Universitas Gregoriana, Romae, 1955, vol. III.
- CORONATA, O. M. C., Matthaeus Conte a – “*Institutiones Iuris Canonici*” – Marietti, Taurini, 1935, vol. IV.
- CORREIA DE OLIVEIRA, Plinio – “Juízo temerário”, in “Legionário” de 19-10, 26-10 e 2-11-1941.
- CORREIA DE OLIVEIRA, Plinio – “Em Defesa da Ação Católica” – Editora Ave Maria, São Paulo, 1943.
- D’ANNIBALE, Josephus – “*Summula Theologiae Moralis*” – Ex Typ. S. Josephi, Mediolani, 1882, pars II.
- D’ANNIBALE, Josephus – “*In Constitutionem Apostolicae Sedis Commentarii*” – Salv. Trinchi, Reate, 1880.
- DAVIS, S. J., Henry – “Moral and Pastoral Theology” – Sheed and Ward, London, 1945, vol. II.
- DE BRUYNE, Luciano – Verbete “Eresia” – in “Enciclopedia Cattolica”, Città del Vaticano, 1950, vol. V.
- DE LUGO, S. J., Joannes – “*De Virtute Fidei Divinae*” – “*Disputationes Scholasticae et Morales*”, Vivès, Parisiis, 1868, vol. II.
- DIANA, Antoninus – “*Resolutiones Morales*” – Franc. Baba, Venetiis, 1635, pars IV, tract. VII.
- FERRERES, S. J., Ioannes – MONDRIA, S. J., Alfredus – “*Compendium Theologiae Moralis*” – Subirana, Barcinone, 1953, tom. II.
- GENICOT, S. J., Eduardus – SALSMANS, S. J., Ios. – “*Institutiones Theologiae Moralis*” – Desclée, Brugis, 1951, vol. II.
- IORIO, S. J., Thomas A. – “*Theologia Moralis*” – D’Auria, Neapoli, 1960, vol. II.
- JOURNET, Card. Charles – “L’Église du Verbe Incarné” – Desclée, Bruges, 1962, vol. II.
- LEÃO XIII – Carta Encíclica “*Immortale Dei*”, sobre a constituição cristã dos Estados – Editora Vozes Ltda., Petrópolis, 1946.

LEHMKUHL, S. J., Augustinus – “*Theologia Moralis*” – Herder, Friburgi Brisgoviae, 1887, vol. II.

MAYER, Dom Antonio de Castro – “Carta Pastoral sobre Problemas do Apostolado Moderno” – Boa Imprensa Ltda., Campos, 1953.

MAYER, Dom Antonio de Castro – “Considerações a propósito da Aplicação dos Documentos Promulgados pelo Concílio Ecumênico Vaticano II – Carta Pastoral” – Editora Vera Cruz, São Paulo, 1966.

MERKELBACH, O. P., Benedictus Henricus – “*Summa Theologiae Moralis*” – Desclée, Parisiis, 1931, tom. I.

MICHEL, A. – Verbete “Hérésie, hérétique” – in “Dictionnaire de Théologie Catholique”, Paris, 1920, tom. VI.

MIGUÉLEZ Domínguez, Lorenzo – ALONSO Morán, O. P., Sabino – CABREROS de Anta, C. M. F., Marcelino – “Código de Derecho Canónico [...] Comentado” – B. A. C., Madrid, 1957.

NOLDIN, S. J., H. – SCHMITT, S. J., A. – HEINZEL, S. J., G. – “*Summa Theologiae Moralis*” – Rauch, Oeniponte, 1962.

PALAZZINI, Pietro – Verbete “Censura” – in “Enciclopedia Cattolica”, Città del Vaticano, 1949, vol. III.

(PAULO VI) – “Diretório Ecumênico *Ad Totam Ecclesiam*”, do Secretariado para a União dos Cristãos – Editora Vozes Ltda., Petrópolis, 1967.

PEINADOR, C. M. F., Antonius – “*Cursus Brevior Theologiae Moralis*” – Coculsa, Madrid, 1950, tom. II, vol. I.

PRÜMMER, O. P., Dominicus M. – “*Manuale Theologiae Moralis*” – Herder, Friburgi Brisgoviae, 1940, tom. I.

REGATILLO, S. J., Eduardus F. – “*Institutiones Iuris Canonici*” – Sal Terrae, Santander, 1961, vol. II.

REIFFENSTUEL, O. F. M. Reformat., Anacletus – “*Theologia Moralis*” – A. Bortoli, Venetiis, 1704, tract. IV, dist. IV, q. III.

SÃO PIO X – “Carta Encíclica *Pascendi Dominici Gregis*”, sobre o modernismo – Editora Vozes Ltda., Petrópolis, 1948.

SÃO TOMÁS DE AQUINO – “*Super Epistolam ad Titum Lectura*” – in “*Super Epistolas S. Pauli Lectura*”, Marietti, Taurini-Romae, 1953.

SÃO TOMÁS DE AQUINO – “*Summa Theologiae*” – Marietti, Taurini-Romae, 1948-1950.

SCHMALZGRUEBER, S. J., Franciscus – “*Jus Ecclesiasticum Universum*”, tom. V, pars I, tit. 7 – Typ. Rev. Cam. Apostolicae, Romae, 1845, vol. 10.

SIGAUD, S. V. D., Dom Geraldo de Proença – “Carta Pastoral sobre a Seita Comunista” – Editora Vera Cruz, São Paulo, 1963.

SIPOS, Stephanus – “*Enchiridion Iuris Canonici*” – Herder, Romae, 1954.

SUAREZ, S. J., Franciscus – “*De Fide*” – “*Opera Omnia*”, Vivès, Parisiis, 1858, vol. XII.
TANQUEREY, Ad. – “*Brevior Synopsis Theologiae Moralis*” – Desclée, Parisiis-Tornaci-Romae, 1946.
TANQUEREY, Ad. – “*Synopsis Theologiae Moralis et Pastoralis*” – Desclée, Parisiis-Tornaci-Romae, 1948, tom. II.
VERMEERSCH, S. J., Arthurus – CREUSEN, S. J., Ios. – “*Epitome Iuris Canonici*” – Dessain, Melchliniae-Romae, 1946, tom. III.
WERNZ, S. J., Franciscus Xav. – VIDAL, S. J., Petrus – “*Ius Canonicum*” – Universitas Gregoriana, Romae, 1943, tom. VII.
ZALBA, S. J., Marcellino – “*Theologiae Moralis Compendium*” – B. A. C., Madrid, 1958, vol. II.

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■ The previous articles in this series, entitled “What is the doctrinal authority of pontifical and conciliar documents?” and “Not only heresy can be condemned by ecclesiastical authority”, were published in issues 202 and 203, of last October and November, of this newspaper*.

* (“Catolicismo”, n.d.t)